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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,707	07/31/2003	Atsushi Sutoh	520.42961X00	1588

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EXAMINER

MIZRAHI, DIANE D

ART UNIT	PAPER NUMBER
2165	

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,707

Applicant(s)

SUTOH ET AL.

Examiner

DIANE D. MIZRAHI

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18-10-06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,6 and 8-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-23 is/are allowed.
- 6) ☒ Claim(s) 1-2 and 5-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

III. DETAILED ACTION

Claims 1-2, 5-6 and 8-23 are presented for examination.

In response to communications filed on 10-18-06, the Claims 1-2, 5-6 and 8-23 are pending in the application. Applicant's arguments have been reconsidered but are not deemed persuasive for the reasons set forth below.

Claim Rejections - 35 USC 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 5 is rejected under 35 U.S.C. 101 because the claims are directed to a non-statutory subject matter, specifically, the claims are not directed towards the final result that is “useful, tangible and concrete.

(See State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02 and Alappat, 33 F.3d at 1544, 31 USPQ2d at 1557). The decisions state to be eligible for patent protection, the claimed invention as a whole must accomplish a practical application. A claim limited to a machine or manufacture, which has a practical application, is statutory. Alappat, 33 F.3d at 1544, 31 USPQ2d at 1557). That is, it must produce a “useful, concrete and tangible result”. The purpose of this requirement is to limit patent protection to inventions that possess a certain level of “real world” value as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research (Brenner v. Manson, 383 U.S. 519, 528-36, 148 USPQ 689, 693-96 (1966); In re Fisher, 421 F.3d 1365, 76 USPQ 2d 1255

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(Fed. Cir. 2005); In re Ziegler, 992 F.2d 1197, 1200-03, 26 USPQ 2d 1600, 1603-06(Fed. Cir.1993).

Regarding Claim 5 (line 3) the claimed, “signal” is not statutory because “signal” does not recite nothing but physical characteristics of a form of energy such as frequency, voltage, magnetic field strength, or define energy or magnetism, per se, are nonstatutory natural phenomena. O’Reilly, 56 U.S. (15 How.) at 112-14.

Applicant is recommended to amend the claim without introducing new matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2 and 5-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Schlieben et al. (U.S. Publication No. 20030096605 A1 and Schlieben hereinafter).

Regarding Claims 1 and 5, Schlieben teaches a plurality of storage mediums for storing data [0097][0216][0218]; a plurality of disk drives each including one of said a storage mediums for storing data [0412]; a disk controller (i.e. central controller) for controlling said plurality of storage devices [0412]; and means for notifying a first external device [0097] of a change in data stored in a specific one of said of storage mediums [0216][0218][0507], wherein said change [0476][0423][0516] in data stored in said specific one of said storage mediums [0216][0218] is performed under control of a second external device (i.e. destination devices) [0096][0225] and both of said external devices are connected to said controller[0097][0412].

Regarding Claim 2, Schlieben an interface for externally selecting said specific one of said plurality of storage mediums, [0216][0218][0507] [0521] wherein said change in said data stored in said specific one of said of storage [0216][0218][0507] is notified to said external device [0507].

Regarding Claim 6 the limitations is similar in scope to the rejected claims above and is therefore rejected as set forth above.

Allowable Subject Matter

Claims 8-23 are allowed over the prior art of record.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding Independent Claims 8 and 23, Applicant's particular data control for duplicating data in a primary system and secondary system connected to each other into a specific disk drive registering a log based on an update which can be recreated, copying the log registered disk drive to a specific disk drive within the second device, the second storage device

being set to duplicate the log, updating the first storage device, notifying the second computer system of the change in the specific disk drive and as a result, copying and reading the change in the specific disk drive, updating a duplicate of the data based on the log read by the second computer system the duplicate data being stored in the second storage device in combination with the other limitations of the claims, was not disclosed by, would not have been obvious over, nor would have been fairly suggested by the prior art of record.

The dependent claims, being further limiting to the independent claims, definite and enabled by the Specification are also allowed. The closest prior art fails to anticipate or render Applicant's limitations above obvious.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

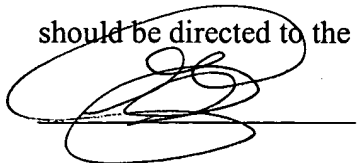
Other Prior Art Made of Record

The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. U.S. patents and U.S. patent application publications will not be supplied with Office actions. Examiners advises the Applicant that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site (www.uspto.gov), from the Office of Public Records and from commercial sources. For the use of the Office's PAIR system, Applicants may refer to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diane D. Mizrahi whose telephone number is 571-272-4079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272-4146. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 305-3900 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



Diane Mizrahi
Primary Patent Examiner
Technology Center 2100

November 13, 2006